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9

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

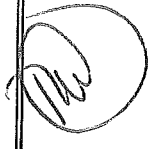
12 UNITED STATES OF AMERICA, ) CR No. 10-381-GHK  
13 )  
Plaintiff, ) PLEA AGREEMENT FOR DEFENDANT  
14 ) ISABEL RICO  
v. )  
15 )  
ISABEL RICO, )  
16 aka, "Bad Girl, )  
17 Defendant. )  
18

19 1. This constitutes the plea agreement between ISABEL RICO  
20 ("defendant") and the United States Attorney's Office for the  
21 Central District of California ("the USAO") in the above-  
22 captioned. This agreement is limited to the USAO and cannot bind  
23 any other federal, state, local, or foreign prosecuting,  
24 enforcement, administrative, or regulatory authorities.

25 DEFENDANT'S OBLIGATIONS

26 2. Defendant agrees to:

27 a) At the earliest opportunity requested by the USAO  
28 and provided by the Court, appear and plead guilty to count one



1 of the indictment in United States v. Isabel Rico, aka "Bad  
2 Girl," and Zenaida Sandy Dibernardo, CR 10-381-GHK.

3 b) Not contest facts agreed to in this agreement.

4 c) Abide by all agreements regarding sentencing factors  
5 contained in this agreement.

6 d) Appear for all court appearances, surrender as  
7 ordered for service of sentence, obey all conditions of any bond,  
8 and obey any other ongoing court order in this matter.

9 e) Not commit any crime; however, offenses that would  
10 be excluded for sentencing purposes under United States  
11 Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines")  
12 § 4A1.2(c) are not within the scope of this agreement.

13 f) Be truthful at all times with Pretrial Services, the  
14 United States Probation Office, and the Court.

15 g) Pay the applicable special assessment at or before  
16 the time of sentencing unless defendant lacks the ability to pay  
17 and submits a completed financial statement (form OBD-500) to the  
18 USAO prior to sentencing.

19 THE USAO'S OBLIGATIONS

20 3. The USAO agrees to:

21 a) Not contest facts agreed to in this agreement.

22 b) Abide by all agreements regarding sentencing factors  
23 contained in this agreement.

24 c) At the time of sentencing, move to dismiss the  
25 remaining counts of the indictment as against defendant, and the  
26 single-count information filed against defendant on August 4,  
27 2010, pursuant to Title 21, United States Code, Section 851.  
28

1 Defendant agrees, however, that at the time of sentencing the  
2 Court may consider the dismissed counts and dismissed information  
3 in determining the applicable Sentencing Guidelines range, the  
4 propriety and extent of any departure from that range, and the  
5 sentence to be imposed after consideration of the Sentencing  
6 Guidelines and all other relevant factors under 18 U.S.C.  
7 § 3553(a).

8 d) At the time of sentencing, provided that defendant  
9 demonstrates an acceptance of responsibility for the offenses up  
10 to and including the time of sentencing, recommend a two-level  
11 reduction in the applicable Sentencing Guidelines offense level,  
12 pursuant to U.S.S.G. § 3E1.1, and recommend and, if necessary,  
13 move for an additional one-level reduction if available under  
14 that section.

15 NATURE OF THE OFFENSE

16 4. Defendant understands that for defendant to be guilty of  
17 the crime charged in count one (violation of Title 21, United  
18 States Code, Sections 846, 841(a)(1), (b)(1)(B)(viii), and  
19 (b)(1)(C), the following must be true: (1) beginning on a date  
20 unknown, and ending on or about October 9, 2009, there was an  
21 agreement between two or more persons to commit at least one  
22 crime as charged in the indictment, namely, the distribution of  
23 methamphetamine, or the distribution of heroin, in violation of  
24 Title 21 United States Code Section 841(a)(1); and (2) defendant  
25 became a member of the conspiracy knowing of at least one of its  
26 objects and intending to help accomplish it. Defendant admits  
27 that defendant is, in fact, guilty of this offense as described  
28 in count one of the indictment.

1        5. Defendant understands that for defendant to be subject  
2 to the statutory maximum and statutory minimum sentences set  
3 forth below, the government must prove beyond a reasonable doubt  
4 that defendant conspired to distribute at least five grams of  
5 methamphetamine. Defendant admits that defendant, in fact,  
6 conspired to distribute at least five grams of methamphetamine.

7                                PENALTIES

8        6. Defendant understands that the statutory maximum  
9 sentence that the Court can impose for a violation of Title 21,  
10 United States Code, Sections 846, 841(a)(1), and (b)(1)(B) is: 40  
11 years' imprisonment; a life-time period of supervised release; a  
12 fine of \$2,000,000 or twice the gross gain or gross loss  
13 resulting from the offense, whichever is greatest; and a  
14 mandatory special assessment of \$100. However, if defendant  
15 committed the offense described in count one of the indictment  
16 after a prior conviction for a felony drug offense had become  
17 final, as alleged in the information filed pursuant to Title 21,  
18 United States Code, Section 851 on August 4, 2010, and if  
19 defendant breaches this agreement and the USAO elects to proceed  
20 on the information, the statutory maximum sentence that the Court  
21 can impose for a violation of Title 21, United States Code,  
22 Sections 846, 841(a)(1), and (b)(1)(B), is: life imprisonment; a  
23 life-time period of supervised release; a fine of 4,000,000 or  
24 twice the gross gain or gross loss resulting from the offense,  
25 whichever is greatest; and a mandatory special assessment of  
26 \$100.

27        7. Defendant understands that the statutory mandatory  
28 minimum sentence that the Court must impose for a violation of

1 Title 21, United States Code, Sections 846, 841(a)(1), and  
2 (b)(1)(B) is five years imprisonment, followed by four years  
3 supervised release. However, if defendant committed the offense  
4 described in count one of the indictment after a prior conviction  
5 for a felony drug offense had become final, as alleged in the  
6 information filed pursuant to Title 21, United States Code,  
7 Section 851 on August 4, 2010, and if defendant breaches this  
8 agreement and the USAO elects to proceed on the information, the  
9 statutory mandatory minimum sentence that the Court must impose  
10 for a violation of Title 21, United States Code, Sections 846,  
11 841(a)(1), and (b)(1)(B), is 10 years' imprisonment, followed by  
12 an eight-year period of supervised release.

13 8. Defendant understands that supervised release is a  
14 period of time following imprisonment during which defendant will  
15 be subject to various restrictions and requirements. Defendant  
16 understands that if defendant violates one or more of the  
17 conditions of any supervised release imposed, defendant may be  
18 returned to prison for all or part of the term of supervised  
19 release authorized by statute for the offense that resulted in  
20 the term of supervised release.

21 9. Defendant understands that under 21 U.S.C. § 862a,  
22 defendant will not be eligible for assistance under state  
23 programs funded under the Social Security Act or Federal Food  
24 Stamp Act or for federal food stamp program benefits, and that  
25 any such benefits or assistance received by defendant's family  
26 members will be reduced to reflect defendant's ineligibility.

27 10. Defendant understands that, by pleading guilty,  
28 defendant may be giving up valuable government benefits and

1 valuable civic rights, such as the right to vote, the right to  
2 possess a firearm, the right to hold office, and the right to  
3 serve on a jury. Defendant understands that once the court  
4 accepts defendant's guilty plea, it will be a federal felony for  
5 defendant to possess a firearm or ammunition. Defendant  
6 understands that the conviction in this case may also subject  
7 defendant to various other collateral consequences, including but  
8 not limited to revocation of probation, parole, or supervised  
9 release in another case and suspension or revocation of a  
10 professional license. Defendant understands that unanticipated  
11 collateral consequences will not serve as grounds to withdraw  
12 defendant's guilty plea.

13 11. Defendant understands that, if defendant is not a  
14 United States citizen, the felony conviction in this case may  
15 subject defendant to removal, also known as deportation, which  
16 may, under some circumstances, be mandatory. The court cannot,  
17 and defendant's attorney also may not be able to, advise  
18 defendant fully regarding the immigration consequences of the  
19 felony conviction in this case. Defendant understands that by  
20 entering a guilty plea defendant waives any claim that unexpected  
21 immigration consequences may render defendant's guilty plea  
22 invalid.

23 FACTUAL BASIS

24 12. Defendant and the USAO agree to the statement of facts  
25 provided below. Defendant and the USAO agree that this statement  
26 of facts is sufficient to support a plea of guilty to the charge  
27 described in this agreement and to establish the Sentencing  
28 Guidelines factors set forth in paragraph 14 below but is not

1 meant to be a complete recitation of all facts relevant to the  
2 underlying criminal conduct or all facts known to either party  
3 that relate to that conduct.

4       On or about September 30, 2009, in Ventura County, within  
5 the Central District of California, defendant and co-defendant  
6 Zenaida Sandy Dibernardo ("Dibernardo") conspired to and did, in  
7 fact, sell methamphetamine and heroin to a confidential informant  
8 ("CI") who was working with the Bureau of Alcohol, Tobacco,  
9 Firearms, and Explosives ("ATF"). Specifically, on September 30,  
10 2009, the CI called Dibernardo and informed her that he/she  
11 wanted to buy methamphetamine and heroin. Later that day,  
12 Dibernardo called the CI back and said that she had a contact,  
13 whom she identified as "Bad Girl," and who was later identified  
14 as defendant, that would sell the CI methamphetamine and heroin.  
15 The CI drove to the corner of Pleasant Valley Road and Pomona  
16 Street in Port Hueneme, California, where Dibernardo was waiting.  
17 Dibernardo got into the CI's car and they drove to Poplar Street  
18 in Oxnard, California, where they picked up defendant and a  
19 Hispanic male. Dibernardo introduced the CI to defendant. From  
20 the CI's car, defendant called her source for methamphetamine and  
21 heroin and arranged to meet the source in the parking lot of a  
22 Taco Bell restaurant on Channel Islands Boulevard in Oxnard,  
23 California. The CI drove to the Taco Bell parking lot, and  
24 there, the CI gave defendant and Dibernardo the buy funds for the  
25 methamphetamine and heroin. Defendant got out of the car and got  
26 into a silver Honda sedan that was also parked in the lot.  
27 Approximately ten minutes later, defendant got back into the CI's  
28 car and the CI drove back to Poplar Street. Defendant and the CI

1 got out of the car and got into defendant's white truck that was  
2 parked on Poplar street. While in defendant's truck, defendant  
3 gave the CI 11 grams of heroin and 26.8 grams of a substance  
4 that contained 21.5 grams of pure methamphetamine. The CI told  
5 defendant that she/he gave Dibernardo an extra \$100, and that  
6 Dibernardo should split that money with defendant. In total, the  
7 CI paid Dibernardo and defendant \$1780. At the time, defendant  
8 and Dibernardo knew the substances were methamphetamine and  
9 heroin or some other prohibited drug.

10 Also, on or about October 9, 2009, in Ventura County, within  
11 the Central District of California, defendant sold the CI heroin.  
12 Specifically, on October 9, 2009, the CI and defendant agreed to  
13 meet so that defendant could sell heroin to the CI. The CI drove  
14 to 2nd Street in Port Hueneme, California, and met defendant  
15 outside a house located at 345 2nd Street. The CI and defendant  
16 went inside the house, and defendant talked to her source for  
17 heroin by telephone. Approximately ten minutes later, defendant  
18 left the house and got into a silver Ford F-150 truck that drove  
19 by the house. The driver drove down 2nd Street, and returned to  
20 the house a few minutes later to drop off defendant. Defendant  
21 went back inside the house, and showed the CI heroin. Defendant  
22 then gave the CI 24.2 grams of heroin, and told the CI that the  
23 price was \$690. The CI gave defendant \$700 and told her to keep  
24 the extra \$10. At the time, defendant knew it was heroin or some  
25 other prohibited drug.

#### 26 SENTENCING FACTORS

27 13. Defendant understands that in determining defendant's  
28 sentence the Court is required to consider the factors set forth



1 in 18 U.S.C. § 3553(a)(1)-(7), including the kinds of sentence  
 2 and sentencing range established under the Sentencing Guidelines.  
 3 Defendant understands that the Sentencing Guidelines are advisory  
 4 only, that defendant cannot have any expectation of receiving a  
 5 sentence within the Sentencing Guidelines range, and that after  
 6 considering the Sentencing Guidelines and the other § 3553(a)  
 7 factors, the Court will be free to exercise its discretion to  
 8 impose any sentence it finds appropriate up to the maximum set by  
 9 statute for the crime of conviction.

10 14. Defendant and the USAO agree to the following  
 11 applicable Sentencing Guidelines factors:

12 Base Offense Level : 28 [U.S.S.G. § 2D1.1(c)(6)]  
 13 Defendant and the USAO reserve the right to argue that additional  
 14 specific offense characteristics, adjustments, and departures  
 15 under the Sentencing Guidelines are appropriate. Defendant  
 16 understands that defendant's offense level could be increased if  
 17 defendant is a career offender under U.S.S.G. §§ 4B1.1 and 4B1.2.  
 18 If defendant's offense level is so altered, defendant and the  
 19 USAO will not be bound by the agreement to Sentencing Guideline  
 20 factors set forth above.

21 15. Defendant understands that there is no agreement as to  
 22 defendant's criminal history or criminal history category.

23 16. Defendant and the USAO reserve the right to argue for a  
 24 sentence outside the sentencing range established by the  
 25 Sentencing Guidelines based on the factors set forth in 18 U.S.C.  
 26 § 3553(a)(1), (a)(2), (a)(3), (a)(6), and (a)(7), <sup>although</sup> ~~along~~ defendant  
 27 understands that the court is required to impose a mandatory  
 28 minimum sentence of five years.

WAIVER OF APPEAL OF CONVICTION

19. Defendant understands that, with the exception of an appeal based on a claim that defendant's guilty plea were involuntary, by pleading guilty defendant is waiving and giving up any right to appeal defendant's conviction on the offense to which defendant is pleading guilty.

LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

20. Defendant agrees that, provided the Court imposes a total term of imprisonment on <sup>the</sup> ~~all~~ counts of conviction <sup>within guideline</sup> ~~of no more~~ <sup>level 25 and her criminal history category.</sup> than 137 months of imprisonment, defendant gives up the right to appeal all of the following: (a) the procedures and calculations used to determine and impose any portion of the sentence; (b) the term of imprisonment imposed by the Court; (c) the fine imposed by the court, provided it is within the statutory maximum; (d) the term of probation or supervised release imposed by the Court, provided it is within the statutory maximum; and (e) any of the following conditions of probation or supervised release imposed by the Court: the standard conditions set forth in General Orders 318, 01-05, and/or 05-02 of this Court; the drug testing conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

21. The USAO agrees that, provided (a) all portions of the sentence are at or above the statutory minimum and at or below the statutory maximum specified above and (b) the Court imposes a term of imprisonment of no less than <sup>the low end of guideline</sup> ~~120 months~~ <sup>level</sup> ~~of imprisonment,~~ the USAO gives up its right to appeal any portion of the sentence.

1                   RESULT OF WITHDRAWAL OF GUILTY PLEA

2           22. Defendant agrees that if, after entering a guilty plea  
3 pursuant to this agreement, defendant seeks to withdraw and  
4 succeeds in withdrawing defendant's guilty plea on any basis  
5 other than a claim and finding that entry into this plea  
6 agreement was involuntary, then (a) the USAO will be relieved of  
7 all of its obligations under this agreement; and (b) should the  
8 USAO choose to pursue any charge or any allegation of a prior  
9 conviction for a felony drug offense that was either dismissed or  
10 not filed as a result of this agreement, then (i) any applicable  
11 statute of limitations will be tolled between the date of  
12 defendant's signing of this agreement and the filing commencing  
13 any such action; and (ii) defendant waives and gives up all  
14 defenses based on the statute of limitations, any claim of pre-  
15 indictment delay, or any speedy trial claim with respect to any  
16 such action, except to the extent that such defenses existed as  
17 of the date of defendant's signing this agreement.

18                   EFFECTIVE DATE OF AGREEMENT

19   23. This agreement is effective upon signature and execution of  
20 all required certifications by defendant, defendant's counsel,  
21 and an Assistant United States Attorney.

22                   BREACH OF AGREEMENT

23   24. Defendant agrees that if defendant, at any time after  
24 the signature of this agreement and execution of all required  
25 certifications by defendant, defendant's counsel, and an  
26 Assistant United States Attorney, knowingly violates or fails to  
27 perform any of defendant's obligations under this agreement ("a  
28 breach"), the USAO may declare this agreement breached. All of

1 defendant's obligations are material, a single breach of this  
2 agreement is sufficient for the USAO to declare a breach, and  
3 defendant shall not be deemed to have cured a breach without the  
4 express agreement of the USAO in writing. If the USAO declares  
5 this agreement breached, and the Court finds such a breach to  
6 have occurred, then: (a) if defendant has previously entered a  
7 guilty plea pursuant to this agreement, defendant will not be  
8 able to withdraw the guilty plea, and (b) the USAO will be  
9 relieved of all its obligations under this agreement.

10 25. Following the Court's finding of a knowing breach of  
11 this agreement by defendant, should the USAO choose to pursue any  
12 charge or any allegation of a prior conviction for a felony drug  
13 offense that was either dismissed or not filed as a result of  
14 this agreement, then:

15 a) Defendant agrees that any applicable statute of  
16 limitations is tolled between the date of defendant's signing of  
17 this agreement and the filing commencing any such action.

18 b) Defendant waives and gives up all defenses based on  
19 the statute of limitations, any claim of pre-indictment delay, or  
20 any speedy trial claim with respect to any such action, except to  
21 the extent that such defenses existed as of the date of  
22 defendant's signing this agreement.

23 c) Defendant agrees that: (i) any statements made by  
24 defendant, under oath, at the guilty plea hearing (if such a  
25 hearing occurred prior to the breach); (ii) the agreed to factual  
26 basis statement in this agreement; and (iii) any evidence derived  
27 from such statements, shall be admissible against defendant in  
28 any such action against defendant, and defendant waives and gives

1 up any claim under the United States Constitution, any statute,  
2 Rule 410 of the Federal Rules of Evidence, Rule 11(f) of the  
3 Federal Rules of Criminal Procedure, or any other federal rule,  
4 that the statements or any evidence derived from the statements  
5 should be suppressed or are inadmissible.

6 COURT AND PROBATION OFFICE NOT PARTIES

7 26. Defendant understands that the Court and the United  
8 States Probation Office are not parties to this agreement and  
9 need not accept any of the USAO's sentencing recommendations or  
10 the parties' agreements to facts or sentencing factors.

11 27. Defendant understands that both defendant and the USAO  
12 are free to: (a) supplement the facts by supplying relevant  
13 information to the United States Probation Office and the Court,  
14 (b) correct any and all factual misstatements relating to the  
15 Court's Sentencing Guidelines calculations, and (c) argue on  
16 appeal and collateral review that the Court's Sentencing  
17 Guidelines calculations are not error, although each party agrees  
18 to maintain its view that the calculations in paragraph 14 are  
19 consistent with the facts of this case. While this paragraph  
20 permits both the USAO and defendant to submit full and complete  
21 factual information to the United States Probation Office and the  
22 Court, even if that factual information may be viewed as  
23 inconsistent with the facts agreed to in this agreement, this  
24 paragraph does not affect defendant's and the USAO's obligations  
25 not to contest the facts agreed to in this agreement.

26 28. Defendant understands that even if the Court ignores  
27 any sentencing recommendation, finds facts or reaches conclusions  
28 different from those agreed to, and/or imposes any sentence up to

1 the maximum established by statute, defendant cannot, for that  
2 reason, withdraw defendant's guilty plea, and defendant will  
3 remain bound to fulfill all defendant's obligations under this  
4 agreement. Defendant understands that no one -- not the  
5 prosecutor, defendant's attorney, or the Court -- can make a  
6 binding prediction or promise regarding the sentence defendant  
7 will receive, except that it will be within the statutory  
8 maximum.

9 NO ADDITIONAL AGREEMENTS

10 29. Defendant understands that, except as set forth herein,  
11 there are no promises, understandings, or agreements between the  
12 USAO and defendant or defendant's attorney, and that no  
13 additional promise, understanding, or agreement may be entered  
14 into unless in a writing signed by all parties or on the record  
15 in court.

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PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

30. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE  
FOR THE CENTRAL DISTRICT OF CALIFORNIA


ANDRÉ BIROTTE JR.  
United States Attorney

  
AMI SHETH  
Assistant United States Attorney

8/12/10  
Date

  
ISABEL RICO  
Defendant

8-12-10  
Date


  
PAUL E. POTTER  
Attorney for Defendant  
Isabel Rico

8/12/10  
Date

CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of

1 the sentencing factors set forth in 18 U.S.C. § 3553(a), of  
2 relevant Sentencing Guidelines provisions, and of the  
3 consequences of entering into this agreement. No promises,  
4 inducements, or representations of any kind have been made to me  
5 other than those contained in this agreement. No one has  
6 threatened or forced me in any way to enter into this agreement.  
7 I am satisfied with the representation of my attorney in this  
8 matter, and I am pleading guilty because I am guilty of the  
9 charges and wish to take advantage of the promises set forth in  
10 this agreement, and not for any other reason.

11   
12 ISABEL RICO  
13 Defendant

8-12-10  
Date

14  
15 CERTIFICATION OF DEFENDANT'S ATTORNEY

16 I am ISABEL RICO'S attorney. I have carefully and  
17 thoroughly discussed every part of this agreement with my client.  
18 Further, I have fully advised my client of her rights, of  
19 possible pretrial motions that might be filed, of possible  
20 defenses that might be asserted either prior to or at trial, of  
21 the sentencing factors set forth in 18 U.S.C. § 3553(a), of  
22 relevant Sentencing Guidelines provisions, and of the  
23 consequences of entering into this agreement. To my knowledge:  
24 no promises, inducements, or representations of any kind have  
25 been made to my client other than those contained in this  
26 agreement; no one has threatened or forced my client in any way  
27 to enter into this agreement; my client's decision to enter into  
28 this agreement is an informed and voluntary one; and the factual



1 basis set forth in this agreement is sufficient to support my  
2 client's entry of a guilty plea pursuant to this agreement.

3  
4 P. Potter  
5 PAUL E. POTTER  
6 Attorney for Defendant  
7 Isabel Rico  
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8/12/10  
Date